

STANDARD APPLICATION
Harford County
Board of Appeals
Bel Air, Maryland 21014

MAY 16 2007

Case No. 5601
Date Filed 5/14/07
Hearing Date _____
Receipt _____
Fee \$450.00

Shaded Areas for Office Use Only

Type of Application

- ☐ Administrative Decision/Interpretation
- ☐ Special Exception
- ☐ Use Variance
- ☐ Change/Extension of Non-Conforming Use
- ☐ Minor Area Variance
- ☐ Area Variance
- ☐ Variance from Requirements of the Code
- ☐ Zoning Map/Drafting Correction

Nature of Request and Section(s) of Code _____

CASE 5601 MAP 66 TYPE Variance ELECTION DISTRICT 01

LOCATION 411 Blueberry Court, Edgewood 21040

BY James and Sandra Jenkins

Appealed because a variance pursuant to Sec. 267-36(B) Table VI of the Harford County Code to permit a sun porch to maintain a minimum rear yard setback of 20' (35' required) in the R3 District, requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Owner (please print or type)

Name James & Sandra Jenkins Phone Number 410-676-6346

Address 411 Blueberry Ct. Edgewood, MD 21040
Street Number Street City State Zip Code

Co-Applicant _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative Patio Enclosures Inc. Phone Number 410-760-1919
(David Westerfield)

Address 224 8th Ave NW Glen Burnie, MD 21061
Street Number Street City State Zip Code

Land Description

Address and Location of Property 411 Blueberry Ct. Edgewood, MD 21040

Subdivision Otter Creek Landing

Lot Number 124

Acreage/Lot Size 7.476 sf

Election District 01

Zoning R3

Tax Map No. 66

Grid No. 2D

Parcel 307

Water/Sewer: Private

Public Y/Y

List ALL structures on property and current use: single family dwelling, screen porch, deck, shed

Estimated time required to present case: 10–15 min.

If this Appeal is in reference to a Building Permit, state number _____ No (have not applied yet)

Would approval of this petition violate the covenants and restrictions for your property? No

Is this property located within the County's Chesapeake Bay Critical Area? Yes_____ No No

If so, what is the Critical Area Land Use designations:

Is this request the result of a zoning enforcement investigation? Yes ☐ No ☒ No ☐

Is this request within one (1) mile of any incorporated town limits? Yes _____ No No

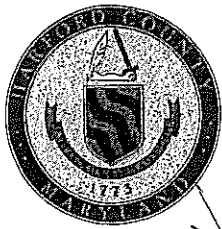
Request

Request a variance to allow an existing screen porch to be enclosed with glass for a 16' x 13' un-heated sun porch with a rear yard setback of 20' in lieu of the required 35' in an R-3 zone.

Justification

Existing porch was built with a variance (case 4926)

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)



COUNTY COUNCIL OF HARFORD COUNTY, MARYLAND

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NOTIFICATION OF ZONING HEARING EXAMINER'S DECISION

DATE OF DECISION: July 2, 1999

HEARING EXAMINER: L. A. Hinderhofer

RE: Zoning Appeal Case No. 4926

APPLICANT: Ann Iwancio

LOCATION: 411 Blueberry Court, Edgewood

REQUEST: Variance to construct a deck and screened-in porch within the required 35 foot rear yard setback

Enclosed is an official copy of the Hearing Examiner's decision relative to the above referenced case.

The Hearing Examiner's decision shall become final twenty (20) calendar days after the date of the decision (JULY 22, 1999), unless a written request for final argument before the County Council/Board of Appeals is filed before the expiration of the twenty (20) calendar day period by the Applicant/Applicant's Attorney, Opponents/People's Counsel, or a person aggrieved who was a party to the proceedings before the Hearing Examiner. In addition, any Board Member, upon written notice to the Council Administrator, may request final argument.

COUNTY COUNCIL OF HARFORD COUNTY


James E. Massey, Jr.
Council Administrator

Enclosure

**cc: Applicant/Attorney; Opponents/Attorney; Adjoining Property Owners;
Registered Hearing Attendees; Department of Planning and Zoning;
Department of Law; People's Counsel**



BOARD OF APPEALS CASE NO. 4926

APPLICANT: Ann Iwancio

**REQUEST: Variance to construct a deck
and screened-in porch within the required
35 foot rear yard setback; 411 Blueberry
Court, Edgewood**

HEARING DATE: June 9, 1999

BEFORE THE

ZONING HEARING EXAMINER

OF HARFORD COUNTY

Hearing Advertised

Aegis: 5/5/99 & 5/12/99

Record: 5/7/99 & 5/14/99

* * * * *

ZONING HEARING EXAMINER'S DECISION

The Applicant, Ann Iwancio, appeared before the Hearing Examiner requesting a variance to Section 267-36(B), Table IV, of the Harford County Code, to construct a deck and screened porch within the required 35 foot rear yard setback in an R3, Urban Residential District.

The subject parcel is located at 411 Blueberry Court in the First Election District. The parcel is identified as Parcel No. 307, in Grid 2-D, on Tax Map 66. The parcel contains .171 acres, more or less, all of which is zoned R3.


Mr. John Iwancio appeared and testified that he is requesting a variance to construct a deck with dimensions of 14 feet by 36 feet. The Applicant said in order to construct the deck he needs a 4 foot area variance. The Applicant said the subject property is unique because there is a sediment pond and Natural Resource District to the rear of the parcel and the parcel is incumbered by a 7.5 foot drainage and utility easement along both sides and a 15 foot drainage and utility easement across the rear of the parcel. The witness said he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because there are no neighbors to the rear on the right side of his parcel. The other adjoining property owner was present and testified he did not feel the variance would be detrimental to his property.

Case No. 4926 - Ann Iwancio

Therefore, it is the recommendation of the Hearing Examiner that the requested variance to reduce the rear yard setback to 22 feet be approved, subject to the following conditions:

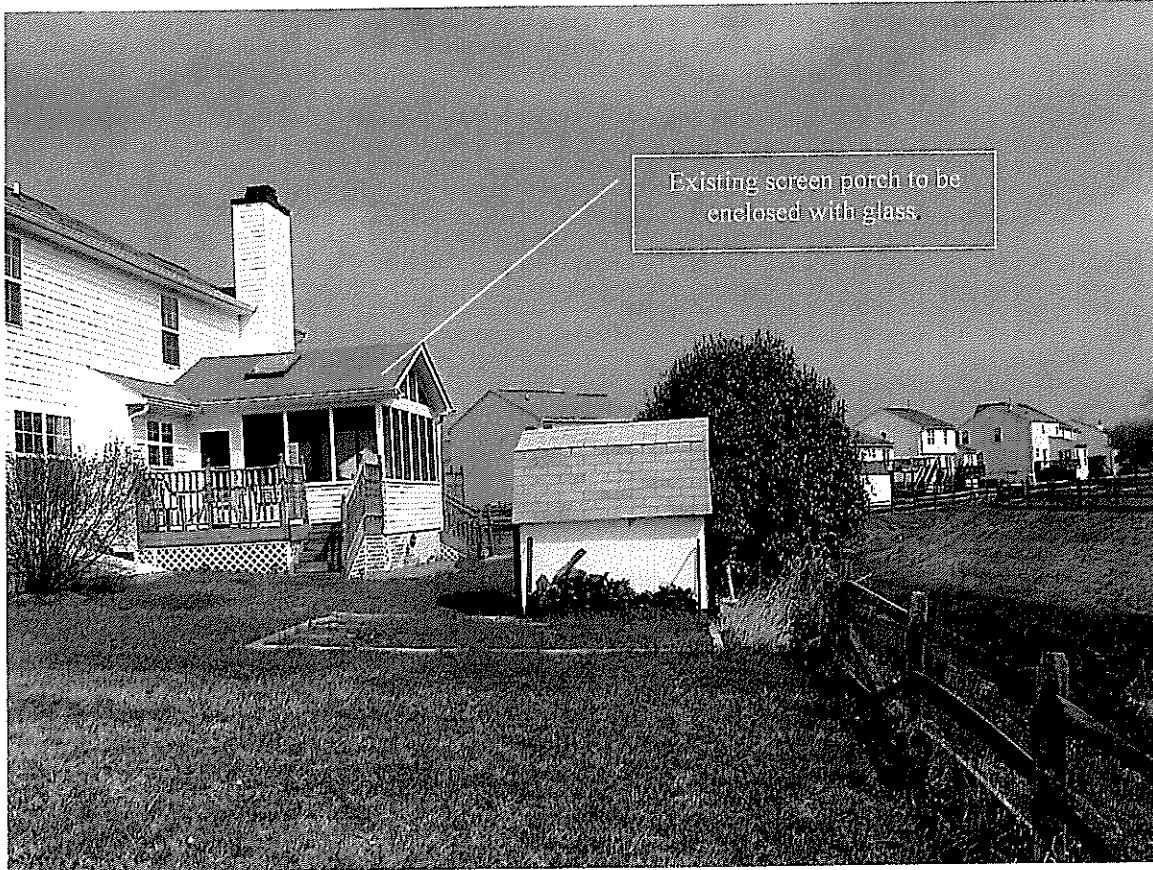
1. The Applicant obtain all necessary permits and inspections.
2. The screened porch shall not be enclosed for year-round use.

Date JULY 2, 1999

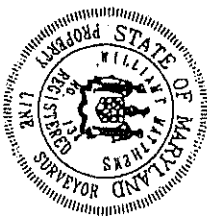


L. A. Hinderhofer
Zoning Hearing Examiner

Variance Photo for:
411 Blueberry Ct.
Edgewood, MD 21040



1/31/83



Location Drawing

Scale: 1" = 30'

The plot is of benefit to a consumer only insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or refinancing. The plot is not to be relied upon for the establishment or location of fences, gates, buildings, dwellings or other existing or future improvements nor does the plot purport to reflect setbacks or other distances with any specific level of accuracy. The plot does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or refinancing. The approximate location of the dwelling is shown in relation to the apparent property lines for the property known as

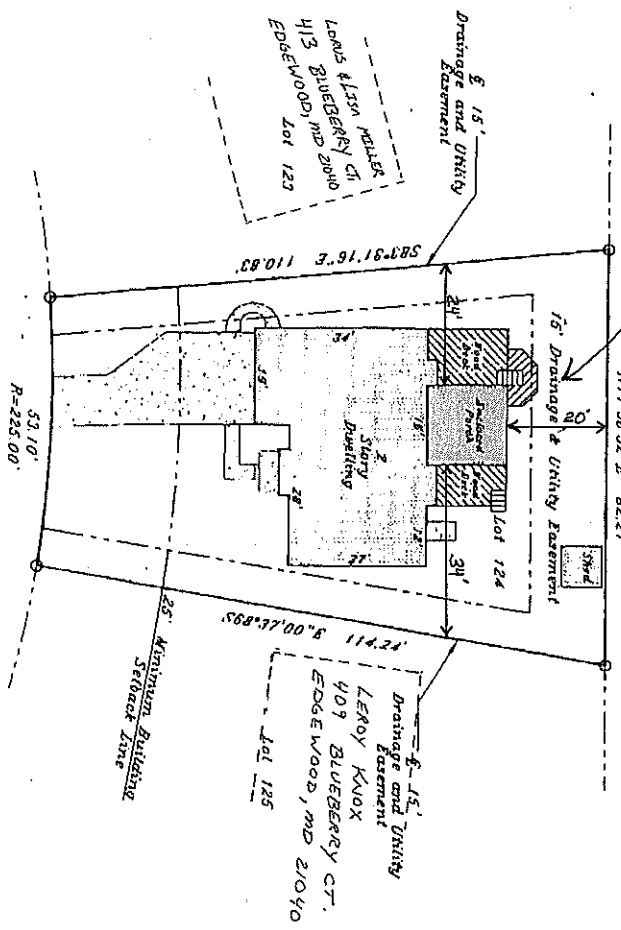
411 Blueberry Court,
Harford County, Maryland

Nelson Patton 7/17/06

Ruston Design Corporation
8422 Bellona Lane
Suite 300
Towson, Maryland 21204
410-823-5000
410-823-0115 fax
rtdc@rustondesign.com
www.rustondesign.com

Natural Resource District

EXISTING SCREEN
PORCH TO BE ENCLOSED
W/ GLASS (C/V 13)



Lot Number: 124
Block/Section: -
Plat Reference: Book: 83 Page: 75
Title of Plat: Plat 1, Section 11,
Phase 1, Otter Creek
Landing

BLUEBERRY COURT

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION



C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

May 24, 2007

STAFF REPORT

BOARD OF APPEALS CASE NO. 5601

APPLICANT/OWNER: James Jenkins
411 Blueberry Court, Edgewood, Maryland 21040

Co-APPLICANT: Sandra Jenkins
411 Blueberry Court, Edgewood, Maryland 21040

REPRESENTATIVE: Patio Enclosures Inc.
(David Westerfield)
224 8th Ave NW Glen Burnie, Maryland 21061

LOCATION: 411 Blueberry Court – Otter Creek Landing
Tax Map: 66 / Grid: 2D / Parcel: 307 / Lot: 124
Election District: First (1)

ACREAGE: 7,476 square foot lot

ZONING: R3/Urban Residential District

DATE FILED: May 14, 2007

HEARING DATE: June 27, 2007

APPLICANT'S REQUEST and JUSTIFICATION:

Request:

“Request a variance to allow an existing screen porch to be enclosed with glass for a 16 foot by 13 foot un-heated sun porch with a rear yard setback of 20 feet in lieu of the required 35 feet in an R3 zone.”

Preserving Harford's past; promoting Harford's future

STAFF REPORT

Board of Appeals Case Number 5601

James & Sandra Jenkins

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Justification:

"Existing porch was built with a variance (Case 4926)"

CODE REQUIREMENTS:

The Applicants are requesting a variance pursuant to Section 267-36 (B) Table VI of the Harford County Code to permit a sun porch to maintain a minimum rear yard setback of 20 feet (35 feet required) in the R3/Urban Residential District.

Enclosed with the report is a copy of Section 267-36(B) Table VI of the Harford County Code (Attachment 1).

LAND USE and ZONING ANALYSIS:

Land Use – Master Plan:

The Applicants property is located in the southern end of the County and is part of the Willoughby Beach community. The lot is located in the Otter Creek Landing subdivision and is situated on the east side of Blueberry Court. A location map, a copy of the record plat and a copy of the Applicant's site plan are enclosed with the report (Attachments 2, 3 and 4).

The subject property is located within the Development Envelope. The predominant land use designations in this general area of the County are Low and Medium Intensities. The Natural Features Map reflects Chesapeake Bay Critical Area, Sensitive Species Project Review Areas, and Stream Systems. The subject property is located in the Low Intensity designation which is defined by the 2004 Master Plan as:

Low Intensity – Areas within the Development Envelope where residential development is the primary land use. Density ranges from 1.0 to 3.5 dwelling units per acre. Neighborhood commercial uses such as convenience stores, doctors' offices, and banks are example of some of the nonresidential uses associated with this designation.

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 5 and 6).

Land Use – Existing:

The existing land uses generally conform to the overall intent of the Master Plan. The predominant land use is residential. Commercial uses are mainly located to the west along Edgewood Road (MD Route 755) and along Pulaski Highway (MD Route 40). Other land uses include schools, churches, fire station, boat marina and Parks and Recreation facilities. The topography of the area is basically level to gently sloping. A copy of the aerial photograph and topography map is enclosed with the report (Attachments 7 and 8).

STAFF REPORT

Board of Appeals Case Number 5601

James & Sandra Jenkins

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This lot is part of the Otter Creek Landing development located off of the southeast side of Frey's Road and Willoughby Beach Road. Improvements consist of a frame 2-story dwelling with an attached 2-car garage and a double wide concrete driveway. Attached to the rear of the dwelling is a screened porch and decks on each side that were approved by the Board of Appeals in July of 1999. The property is nicely landscaped and all improvements appear to be well maintained. There are evergreen trees across the rear of the property. The lot slopes up gently from the road to the front of the house and gently down to the rear of the lot. Site photographs along with an enlargement of the aerial photograph are enclosed with the report (Attachments 9 and 10).

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. The predominant zoning classifications are R2 and R3/Urban Residential Districts. There are a few areas of R4/Urban Residential and RO/Residential Office. Commercial zoning is generally B1/Neighborhood, B2/Community Business and B3/General Business Districts. The subject property is zoned R3/Urban Residential District as shown on the enclosed copy of the zoning map (Attachment 11).

SUMMARY:

The Applicants are requesting a variance pursuant to Section 267-36 (B) Table VI of the Harford County Code to permit a sun porch to maintain a minimum rear yard setback of 20 feet (35 feet required) in the R3/Urban Residential District.

Variances of this nature may be approved by the Board of Appeals pursuant to Section 267-11 of the Harford County Code, provided it finds by reason of the uniqueness of the property or topographical conditions that literal enforcement of the Code would result in practical difficulty and undue hardship. Further, the Applicant must show that the request will not be substantially detrimental to adjacent properties or will not materially impair the purpose of the Code or the public interest.

The previous owner of the property (Ann Iwancio) obtained a variance from the Board of Appeals for the existing deck and screened enclosure in July of 1999 (Attachment 12). Enclosed is a photograph taken by the Applicant of the screened porch pursuant Board of Appeals Case 4926 (Attachment 13). It was determined at that time that there were unique circumstances that permitted the variance to construct the present deck and porch. The 4 foot variance at that time was considered a minor variance because the request was for less than 20% of the setback required by the Code. The approval contains a condition that the screened porch shall not be enclosed for year-round use.

The original variance request was for a 4 foot variance for an accessory structure. The present request is for a 15 foot variance for a principle structure (Attachment 14). This Department finds

STAFF REPORT

Board of Appeals Case Number 5601

James & Sandra Jenkins

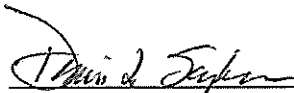
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that there is not sufficient justification to support the current request. The applicant has not provided sufficient evidence that the subject property is unique compared to the other lots in the neighborhood.

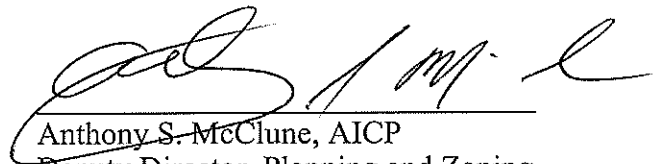
There is a shed located in the right rear corner of the property located by the previous owners in 1999 pursuant to permit 19992180020 and the attached site plan (Attachment 15). The site plan attached to the permit shows the shed outside of the easement. The shed was actually located in the easement only a few feet from the rear property line. Section 267-26C(6) of the Harford County Code states that "No accessory use or structure, except fences, shall be located within any recorded easement area." Therefore the shed must be moved in accordance with the approved permit and site plan.

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request be denied.



Dennis J. Sigler, Coordinator
Zoning & Board of Appeals Review



Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

DJS/ASM/jf